

COLORADO MEDICAL BOARD

FULL BOARD OPEN MINUTES

May 19, 2011
9:07 a.m.

A Full Board meeting of the Colorado Medical Board was held Thursday, May 19, 2011, at 1560 Broadway, Conference Room 1250C, Denver, Colorado at 9:07 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis, Mr. Berson, Dr. Butler (arrived at 9:53 a.m.), Dr. Calonge, Dr. Groce, Ms. Hewitt, Mr. Jennings (departed at 2:00 p.m.), Mr. Kirkpatrick, Dr. Matthews, Dr. Melendez, Dr. Overholt (arrived at 9:21 a.m.), Dr. Phelps (departed at 12:30 p.m.), Mr. Schoenmakers (departed at 12:45 p.m.), Dr. Utt and Dr. Watts.

The meeting was conducted by Dr. Allen-Davis.

Also in attendance for all or part of the meeting were Richard Morales, Healthcare Section Director; Marschall S. Smith, Program Director, Colorado Medical Board (CMB); Lisa Jackson, Enforcement Program Manager, CMB; Monica Brion, Enforcement Case Manager, CMB; Maria Soto, Program Assistant, CMB; and Eric Maxfield, First Assistant Attorney General.

MINUTES

A motion was made, seconded, and carried to approve the open minutes of the February 17, 2011 full board meeting as presented.

REPORTS

President's Report

- Dr. Allen-Davis provided an overview regarding today's meeting agenda. She also said good-bye to the Board members due to the completion of her term as a member of the Board and her tenure as President.

Section Director's Report

- Richard Morales provided the Board with an update regarding the legislative session focusing on changes to the PDMP Program and changes to the medical marijuana program as it relates to the Medical Practice Act.
- Mr. Morales also provided an update regarding Board member recruitment and the status of Board members who had reapplied to serve on the Board.

Program Director's Report

- Marschall Smith shared information regarding:
 - The Annual Federation of State Medical Board and Administrators in Medicine Conferences held from April 26 to April 30, 2011.
 - The status of the Legal Services Budget item and administrative decisions as they impacted the Board.
 - The final fee schedule for licensees applying or re-applying for a Colorado Medical license.
 - The re-organization efforts by Board staff.
 - The Colorado Medical Board's actions regarding the physicians and medical marijuana.

GENERAL BUSINESS

CPHP Third Report for period ending March 31, 2011

The Board reviewed the March 31, 2011 Third Quarter Report.

A motion was made, seconded and carried to accept the report.

Motion to enter Executive Session

A motion was made, seconded and carried to enter into Executive Session at 1:07 p.m., for the purpose of conferring with counsel for the Board to receive legal advice on specific legal questions, pursuant to Colorado Revised Statutes Section 24-6-402(3)(a)(II), specifically:

To receive legal advice concerning the legal implications of responding to COPIC's letter regarding medical malpractice.

At 1:35 p.m., the Board's discussion in Executive Session was concluded and the Board returned to open session.

Discussion regarding medical malpractice insurance

Dr. Phelps and Mr. Schoenmakers were not available for discussion on this matter.

Marschall Smith facilitated a discussion regarding medical malpractice insurance. Ms. Anne Randolph Cox, Esq., General Counsel, COPIC and Mr. Brad Ash, Vice-President, Underwriting and Policyholder Service, COPIC presented to the Board.

After consideration of the available information and discussion of the matter, a motion was made, seconded and carried to provide guidance to the Program Director which included delegated authority to act on behalf of the Board.

Drs. Butler and Overholt opposed the motion.

Discussion regarding the opportunity to use the enhanced Special Purpose Examination (SPEX)

The Program Director facilitated a discussion regarding the SPEX. The administrators of the SPEX process have extended an offer to all state medical boards an opportunity to take the examination at no cost as a demonstration. Dr. Overholt volunteered and was endorsed by the Board to take the SPEX test as a representative of the Board.

Presentation regarding Sunset of the Professional Peer Review Act

Mr. Brian Tobias, Senior Policy Analyst, DORA, presented to the Board an update regarding the status of the Sunset of the Professional Peer Review Act. Kari Hershey, Esq., representing the Colorado Medical Society and John Francis, representing the Colorado Hospital Association also presented information.

This presentation was provided to the Board for its information and no action was required by the Board.

Discussion regarding the maintenance of licensure (MOL)

The Program Director facilitated a discussion regarding MOL pilot project being conducted by FSMB. The Department of Regulatory Agencies, Division of Registrations provided administrative approval for staff to commit to participation in the pilot project. Endorsement from the Board was requested by Program Director for continued participation in the pilot project.

A motion was made, seconded and carried to endorse the commitment to the pilot project and authorizing the Program Director to continue participation representing the Board.

Dr. Melendez opposed the motion.

Discussion and Review of Board Policies

Information and proposed changes were presented to the Board regarding:

- Board Policy 20-09 – Amendments to existing policy
- Board Policy 20-11 – Amendments to existing policy
- Board Policy 40-23 – Repeal existing policy

The Board engaged in a review and discussion of the recommended policy changes separately.

After due consideration and discussion, a motion was made, seconded and carried to accept the amendments to Board Policy 20-09 as presented.

Dr. Melendez abstained from voting on the motion.

A second motion was made, seconded and carried to accept the amendments to Board Policy 20-11 as presented.

A third motion was made, seconded and carried to instructing staff to develop additional changes to Board Policy 20-11, to be presented to the Board at its August 2011 meeting.

A fourth motion was made, seconded and carried to repeal Board Policy 40-23 effective immediately.

Motion to enter Executive Session

A motion was made, seconded and carried to enter into Executive Session at 10:12 a.m., for the purpose of conferring with counsel for the Board to receive legal advice on specific legal questions, pursuant to Colorado Revised Statutes Section 24-6-402(3)(a)(II), specifically:

For counsel's advice concerning legal implications regarding the proposed new Board Rule 285 and regarding response to COPIC's letter regarding medical malpractice.

At 10:44 a.m., the Board's discussion in Executive Session was concluded and the Board returned to open session.

Rulemaking Hearing to Adopt Proposed CMB New Rule 285:

At 10:11 a.m. an announcement was made that, unless objections were expressed, the rulemaking would start immediately following Executive Session. No objections were voiced.

A motion was made, seconded and carried to convene the public rulemaking hearing at 10:58 a.m.

The purpose of the Hearing was to obtain public comment regarding proposed Board Rule 285 to define the term "in good standing". The Hearing was properly noticed under the provisions of the Administrative Procedure Act.

Dr. Allen-Davis presented an overview of the rule. A full opportunity was provided for submission of oral and written comments by the public. A written document was offered or received in advance of the hearing. That document was received from:

- Cecilia C. Wang, M.D., F.A.C.P.

No written documents were offered or received during the hearing.

The Board also provided time to the public for comments. The following people provided public comments:

- Kari Hershey, Esq., on behalf of the Colorado Medical Society
- Linda Siderius, Esq.

There being no other requests to present to the Panel, a motion was made, seconded and carried to end the public hearing. The public hearing closed at 11:20 a.m.

After discussion and due consideration of the comments and information provided, a motion was made, seconded and carried to table the adoption of proposed new Board Rule 285.

A second motion was made, seconded, and carried amending to the proposed Rule 285 and instructing staff to incorporate these amendments in a new draft of the Rule to be considered at the August 2011 meeting.

Dr. Melendez, Dr. Phelps and Mr. Jennings opposed the motions.

Presentation on the Healthcare Professions Profiling Program ("HPPP")

Rose McCall, Division Director; Jason Sunstrom, System Support Director; Jacqueline Arcelin, Healthcare Profile Manager presented to the Board. Rebeca J. Ramirez and John Scott, System Support Technicians were introduced to the Board.

This presentation was provided to the Board for its information and no action was required by the Board.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:36 p.m.

Approved by: Mark C. Watts, M.D.

Date: August 18, 2011